SUPREME COURT OF THE UNITLD STATES

APPENDIX

(i.1) The Memorandum Opinion of U. S. District Court

LOWELL M. STROOM, Plaintiff
v.
JAMES E. CARTER, Defendant

MEMORANDUM OPINION

The Court grants defendant's motion to dismiss because plaintiff has failed to state a claim upon which relief can be granted. Fed.R.Civ.Pro. 12(b)(6).

Plaintiff alleges he was a candidate for president in 1980. He claims that former President Carter acted unconstitutionally and negligently in allowing the Federal Election Campaign Act of 1971 to be applied to the presidential election; that the Republican Party failed to give plaintiff a place on the ballot in various states; that the news media of various states failed to give his candidacy proper attention; and that these media problems inhibited his ability to gain financing for his candidacy.

Plaintiff has filed three motions:

the first seeks to set aside the 1980 presidential election; the second asks the Court to declare the office of the president and vice president vacant; and the third seeks to direct Congress and the states to adopt new election laws.

The heart of plaintiff's concerns appear to be the differing treatment of major and minor political parties for campaign financing under the Federal Election Campaign Act (the Act), 26 U.S.C. §9001 et seq. The Act treats major parties differently from minor or new parties. Id., §9003. Plaintiff argues that political parties should have no role in elections.

The Supreme Court in Buckley v. Valeo, 424 U. S. 1 (1976) rejected similar contentions in upholding the portion of the Act governing campaign financing:

> Appellants insist that Chapter 95 falls short of the constitutional requirement in that its provisions supply larger, and equal, sums to candidates of major parties, used

> prior vote levels as the sole criterion for pre-election funding, limit new-party candidates to post-election funds, and deny funds to candidates of parties receiving less than 5 per cent of the vote. These provisions, it is argued, are fatal to the validity of the scheme, because they work invidious discrimination against minor and new parties in violation of the Fifth Amendment. We disagree.
>
> As conceded by appellants, the Constitution does not require Congress to treat all declared candidates the same for public funding purposes. . (T)here are obvious differences in kind between the needs and potentials of a political party with historically established political support, on the one hand, and a new or small political organization on the other. . .The Constitution does not require the Government to "finance the efforts of every nascent political group." merely because Congress chose to finance the efforts of the major parties.
>
> Id. at 97-98 (footnotes and case citations omitted).

The Supreme Court held that the statutory scheme providing different treatment of major and minor political parties was a constitutional choice within the authority of Congress. Id. at 97-104. Plaintiff's attacks on the Act and the differing

treatment accorded his candidacy compared with the candidacies of major parties thus fail to state a claim upon which relief can be granted. The Court grants defendant's motion and dismisses this action.

An appropriate order accompanies this opinion.

June L. Green (signed)
JUNE L. GREEN
U. S. DISTRICT JUDGE

December 28, 1981

(i.2) The Order of the District Court

LOWELL M. STROOM, Plaintiff
v.
JAMES E. CARTER, Defendant

O R D E R

Upon consideration of defendant's motion to dismiss, plaintiff's response, and the entire record in this action, for the reasons stated in the accompanying opinion, it is by the Court this 28th day of December 1981,

ORDERED that defendant's motion to dismiss is granted: and it is further

ORDERED that this action is dismissed.

June L. Green (signed)
JUNE L. GREEN
U. S. DISTRICT JUDGE

(i.3) The Order of the District Court denying a rehearing. No opinion was filed with this order.

LOWELL M. STROOM, Plaintiff
v.
JAMES E. CARTER, Defendant

O R D E R

Upon consideration of plaintiff's motion for amendments to the Court's findings of December 28, 1981 and a new trial, and the entire record in this action, it is by the Court this 19th day January 1982.

ORDERED that plaintiff's motion is denied.

June L. Green (signed)
JUNE L. GREEN
U. S. DISTRICT JUDGE

(i.4) Order of the Court of Appeals denying an Expedited Hearing.

LOWELL M. STROOM, Appellant
v.
JAMES E. CARTER, Appellee

BEFORE: Tamm, Ginsburg* and Bork, Circuit Judge

O R D E R

On consideration of appellant's application for expedited proceedings, of the opposition thereto, it is

ORDERED by the Court that appellant's application for expedited proceedings is denied.

Per Curiam

*Circuit Judge Ginsburg did not participate in this order.

(i.5) Order of the Court of Appeals denying initial hearing en banc

LOWELL M. STROOM, Appellant
v.
JAMES E. CARTER, Appellee

BEFORE: Robinson, Chief Judge, Wright, Tamm, MacKinnon, Robb, Wilkey, Wald, Mikva, Edwards, Ginsburg and Bork, Circuit Judges

O R D E R

On consideration of appellant's suggestion for en banc hearing, the suggestion having been circulated to the full Court and no Judge having called for a vote thereon, it is

ORDERED by the Court, en banc, that appellant's suggestion for initial hearing en banc is denied.

Per Curiam

For the Court

GEORGE A. FISHER, Clerk

By: Daniel M. Cathey s.
Daniel M. Cathey
First Deputy Clerk

(i.6) Order of the Court of Appeals denying appellant's motion for temporary restraining orders and affirming "the order of the District Court on appeal".

LOWELL M. STROOM, Appellant
v.
JAMES E. CARTER, Appellee

BEFORE: Tamm, Wilkey and Wald, Circuit Judges

O R D E R

On consideration of appellee's motion for summary affirmance, the response thereto, appellant's motion for immediate temporary restraining order, the opposition and of the reply, it is

ORDERED by the Court that the motion for temporary restraining order is denied, and, it is

FURTHER ORDERED by the Court that the order of the District Court on appeal herein is summarily affirmed. It is

FURTHER ORDERED by the Court, sua sponte, that Clerk shall withhold issuance

of the mandate herein until seven days after disposition of any timely petition for rehearing. See Local Rule 14, as amended on November 30, 1981.

Per Curiam

Circuit Judge Tamm did not participate in the foregoing order.

(i.7) Order of the Court of Appeals denying appellant's motion for court rulings on procedures

LOWELL M. STROOM, Appellant
v.
JAMES E. CARTER, Appellee

BEFORE: Wilkey and Wald, Circuit Judges

O R D E R

On consideration of the petition in reference to Appellant's "Motion for Court Ruling on Procedures" entered 19 May 1982, and a dispositive order having been entered on May 24, 1982, it is

ORDERED by the Court that the aforesaid petition is denied.

Per Curiam

FOR THE COURT:

George A. Fisher,
Clerk

by Robert A. Bonner
Robert A. Bonner
Chief Deputy Clerk

(i.8) Order of the Court of Appeals denying a rehearing en banc

LOWELL M. STROOM, Appellant
v.
JAMES E. CARTER, Appellee

BEFORE: Robinson, Chief Judge; Wright, Tamm, MacKinnon, Wilkey, Wald, Mikva, Edwards, Ginsburg, and Bork, Circuit Judges

O R D E R

Appellant's suggestion for rehearing en banc has been circulated to the full Court and no member of the Court has requested the taking of a vote thereon. On consideration of the foregoing, it is

ORDERED by the Court en banc that the aforesaid suggestion is denied.

Per Curiam

FOR THE COURT:

George A. Fisher,
Clerk

by Robert A. Bonner, s.
Robert A. Bonner
Chief Deputy Clerk

(i.9) Order of the Court of Appeals denying a rehearing

LOWELL M. STROOM, Appellant
v.
JAMES E. CARTER, Appellee

BEFORE: Wilkey and Wald, Circuit Judges

O R D E R

On consideration of appellant's petition for rehearing, filed June 17, 1982, it is

ORDERED by the Court that the aforesaid petition is denied.

FOR THE COURT:

George A. Fisher,
Clerk

BY: Robert A. Bonner
Robert A. Bonner
Chief Deputy Clerk

(ii.) Not Used

(iii.1) Copy of the Order of the Court of Appeals sought to be reviewed. Text also appears at i.6, page A9.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-1114 September Term, 19 81

Lowell M. Stroom,
Appellant

v.

James E. Carter, President (formerly)

Civil Action No. 81-02192

United States Court of Appeals for the District of Columbia Circuit

FILED MAY 24 1982

GEORGE A. FISHER
Clerk

BEFORE: Tamm, Wilkey and Wald, Circuit Judges

ORDER

On consideration of appellee's motion for summary affirmance, the responses thereto, appellant's motion for immediate temporary restraining order, the opposition and of the reply, it is

ORDERED by the Court that the motion for temporary restraining order is denied, and, it is

FURTHER ORDERED by the Court that the order of the District Court on appeal herein is summarily affirmed. It is

FURTHER ORDERED by the Court, sua sponte, that the Clerk shall withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See Local Rule 14, as amended on November 30, 1981.

Per Curiam

Circuit Judge Tamm did not participate in the foregoing order.

(iii.2) Copy of the Order of the Court of Appeals denying a rehearing en banc. Text also appears at i.8, page A12.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-1114 September Term, 19 81

Lowell H. Stroom,
Appellant

v.

James E. Carter, President
(Formerly)

Civil Action No. 81-02192

BEFORE: Robinson, Chief Judge, Wright, Tamm, MacKinnon, Wilkey Wald, Mikva, Edwards, Ginsburg and Bork, Circuit Judges

ORDER

Appellant's suggestion for rehearing en banc has been circulated to the full Court and no member of the Court has requested the taking of a vote thereon. On consideration of the foregoing, it is

ORDERED by the Court en banc that the aforesaid suggestion is denied.

Per Curiam

United States Court of Appeals
for the District of Columbia Circuit
FILED JUN 28 1982
GEORGE A. FISHER
Clerk

FOR THE COURT:
George A. Fisher,
Clerk

BY: Robert A. Bonner
Robert A. Bonner
Chief Deputy Clerk

(iii.3) Copy of the Order of the Court of Appeals denying a rehearing. Text also appears at i.9, page A13.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-1114 September Term, 19 81

Lowell N. Stroom,
Appellant

v.

James E. Carter, President
(Formerly)

Civil Action No. 81-02192

BEFORE: Wilkey and Wald, Circuit Judges

United States Court of Appeals
for the District of Columbia Circuit
FILED JUN 28 1982
GEORGE A. FISHER
CLERK

O R D E R

On consideration of appellant's petition for rehearing, filed June 17, 1982, it is

ORDERED by the Court that the aforesaid petition is denied.

FOR THE COURT:

George A. Fisher,
Clerk

BY: Robert A. Bonner
Chief Deputy Clerk

(iv.1) Appellant's Proposed Order 1 for Relief, from the U. S. District Court (Court of Appeals App. at 41) The text here contains minor revisions for improved reading only.

LOWELL M. STROOM, Plaintiff,
v.
JAMES E. CARTER, Defendant.

ORDER 1

UNITED STATES District Court for the District of Columbia notifies the Houses of Congress of the United States, their leaders, members, and employees, of its determination that the Presidential elections of November, 1980, failed to conform to the intent of the United States Constitution, by reason of election procedures which debase and dilute the voting franchise guaranteed by the Constitution. Mr. Carter's negligence in taking care that the Constitution's laws are executed resulted in procedures which failed to provide for the voting franchise as guaranteed by the

Constitution, depriving voters of their liberties without due process of law. (U. S. Const., amend. V) The Court, pursuant to its oath of office, which is to support the Constitution, must declare the results of the election null and void, and order that such elections can make no claim to qualifying a person for the Office of President or for the Office of Vice President. Laws which conflict with the Constitution, all other considerations inclusive, are null and void. (U. S. Const., art VI)

UNITED STATES DISTRICT JUDGE

Dated:

(iv.2) Appellant's Proposed Order 2 for Relief, from the U. S. District Court (Court of Appeals App. at 44) The text here contains minor revisions for improved reading only.

LOWELL M. STROOM, Plaintiff
v.
JAMES E. CARTER, Defendant

ORDER 2

UNITED STATES DISTRICT COURT for the District of Columbia hereby notifies the Houses of Congress of the United States, their leaders, members, and employees, of its determination that the Office of the President and the Office of the Vice President are vacant as of the date the Court declared the results of the 1980 Presidential Elections to be null and void. FURTHER, the Court orders the Congress to call new elections for the fifth Tuesday following the date of issue appearing on Order 1 of this proceeding. The new presidential term of office shall begin

as provided in Order 3 of this proceeding and continue until January 20, 1985. No legislation requiring Presidential approval shall be completed until a new President is inaugurated. Essential administrative duties of the Government may proceed as prescribed by this Court.

UNITED STATES DISTRICT JUDGE

Dated:

(iv.3) Appellant's Proposed Order 3 for Relief, from the U. S. District Court (Court of Appeals App. at 48) The text here contains minor revisions for improved reading only.

LOWELL M. STROOM, Plaintiff,
v.
JAMES E. CARTER, Defendant.

ORDER 3

UNITED STATES DISTRICT COURT for the District of Columbia hereby Orders the Houses of Congress of the United States, their leaders and members, to establish that the Election Offices of each of the 50 states and the District of Columbia shall conform to the intent of the Constitution in all matters of the 1982 Presidential Special Election and thereafter: 1) No special provisions may be attached to any Candidate (such as Lowell Stroom), or to any Candidacy, which do not apply to every other Candidate and Candidacy. 2) Each Candidate must have equal access to Federal Funding if it is provided. 3)

Each Candidate must have equal access to Federally licensed communication stations. 4) The State and Federal governments, and subdivisions thereof, may make no expenditures, now or hereafter, which assist political parties or any such organization in the selection of nominees. 5) No endorsements, such as the names of parties or other organizations shall appear on any ballots for local, State, or Federal offices in the 1982 Presidential Special Election or in any election thereafter. (art. IV) 6) Nothing may be presented in the election procedures "under the color of office" which favors any Candidacy, or suggests any greater right to office. 7) No persons who shall have contributed to the negligence, and to the debasement and dilution of the voting franchise in the 1980 Presidential Elections, shall be a Candidate in the 1982 Presidential Special Elections.

FURTHER, in consideration of the

Constitution's intent in matters of Presidential Elections:

> Article II, The Electors: Article IV, A guaranteed republican form of government; Amendment V, Liberties protected; Amendment IX, All rights reserved for the People and the sovereignty of the People; Amendment XII, The electors; and Amendment XIV, Equal Protection of the laws;

the Court orders that the following procedures shall be followed in the Special Presidential Election of 1982:

8) Each State shall appoint non-partisan Electors who shall transmit accurately to the Congress the state's preferences as expressed in state elections for the President and Vice President, and as prescribed by the Constitution, (amend. XII), but consideration for the Electors shall not influence the form of Elections in the States.

9) The Right to Vote (the voting franchise) is inclusive of the "equal voice" in nominations. Congress shall

invite nominations for the Office of President and for the Office of Vice-President in the "1982 Presidential Special Elections" immediately upon receipt of this Court Order, from each of the organizations named on the Court's "Approved List of Nominating Organizations" attached hereto. In the "call for nominations", organizations shall be informed of the intent of the procedures: A) to establish excellence in the Office of the President and in the Office of the Vice-President; B) to provide for the Constitution's intent, which makes the People responsible for providing Presidential nominations, and C) to match the talent of our nation to the great tasks of government. The "Organizations'" members should be polled to the extent possible. The "List of Organizations" shall not be considered permanent. Similar representative lists shall be created for future elections. The Organizations named shall transmit their

nominations within two weeks of the "call", sealed and certified, to the President pro tempore of the Senate who shall open them in the presence of the Members of the Senate and of Court appointed Marshalls, who shall transmit a list of the nominations to the U. S. Printing Office for the preparation of ballots. Ten names of individuals, selected by the President pro tempore and including that of Lowell M. Stroom, who have had significant support for several years, constituting nomination, shall be placed on the list of Candidates for President before it is transmitted to the U. S. Printing Office.

10) The Elections shall provide for Equal Protection of the Laws. The U. S. Printing Office shall print ballots which shall be used in every state. (amend. XIV) Separate ballots shall be printed each for the Office of President, and for the Office of the Vice-President. (amend. XII)

Nominations shall be listed in a random order on the ballots. (amend. XIV) Equal spaces shall be provided for write-in nominations. (art. IV) No endorsements of any kind, such as the names of political parties or other organizations shall be printed on the ballots. (art. IV, amend. V, XIV).

11) As Ordered by this Court, Elections shall be called for the third Tuesday following the opening of the nominations in the Senate. If no Candidate shall have received a majority of votes in this balloting, Congress shall call a special run-off election for Tuesday, two weeks later, to elect a President and Vice-President from among the three Candidates who received the largest number of votes cast. Ballots for this run-off election shall be printed by the U. S. Printing Office following the identical conditions stated in Provision 10 above. There shall be equal spaces for

write-in votes, separate ballots for President and Vice-President, and no endorsements shall be listed.

12) On the Tuesday following the election, the Electors shall report the results of this election to the Congress as prescribed by Amendment XII of the U. S. Constitution.

13) The inauguration of the new President and Vice-President shall occur on the Tuesday, one week after the report of the Electors has been submitted to the Senate.

14) The term of office of every Presidentially appointed employee, presently employed by the Executive Department of the United States, shall be considered completed on Tuesday, one week following the inauguration. Presidential appointees of the newly inaugurated President, with the advice and consent of the Senate, shall begin their duties and their term of office

on the same day.

UNITED STATES DISTRICT JUDGE

Dated:

(iv.4) Approved List of Nominating Organizations established by Proposed Order 3, from the U. S. District Court (Court of Appeals App. at 53)

LOWELL M. STROOM, Plaintiff
v.
JAMES E. CARTER, Defendant

APPROVED LIST OF NOMINATING ORGANIZATIONS IN THE 1982 PRESIDENTIAL SPECIAL ELECTION

IN ACCORDANCE with the provisions of the Court Order of United States District Court for the District of Columbia, each organization named hereafter, shall be invited by the Congress of the United States to name one person who shall be a Candidate for the Office of President of the United States, and one person who shall be a Candidate for the Office of Vice-President of the United States.

1. The Philosophical Society
2. The National Association of Manufacturers
3. The Rotary Club
4. The League of Women Voters
5. The Sierra Club
6. The Farm Bureau
7. The American Association of Newspaper Editors

8. The National Urban League
9. The American Federation of Musicians
10. The U. S. Chamber of Commerce
11. American Medical Association
12. The National Grange
13. The United Steelworkers of America
14. American Association for the Advancement of Science
15. (Not used)
16. The American Association of University Professors
17. United States Conference of Mayors
18. National League of Cities
19. The Republican Party
20. American Bar Association
21. National Parks and Conservation Association
22. National Governors' Association
23. American Association of Presidents of Independent Colleges and Universities
24. The Libertarian Party
25. The American Civil Liberties Union
26. The National Air Transportation Association
27. The Democratic Party
28. The National Council of Community World Affairs Organizations
29. The International Bankers Association
30. The Congress for Racial Equality
31. The Consumer Party
32. The Kiwanis Club
33. The Association of American Universities

UNITED STATES DISTRICT JUDGE

Dated:

(iv.5) Writ of Accusation of 1327 (Court of Appeals, Appel. Reply Brief)

55. Articles of Accusation against Edward II

(January, 1327. French text, Twysden's *Historiae Anglicanae Scriptores Decem*, 2763. Translation by Editors. 2 Stubbs, 379.)

IT has been decided that prince Edward, the eldest son of the king shall have the government of the realm and shall be crowned king, for the following reasons:

1. First, because the king is incompetent to govern in person. For throughout his reign he has been controlled and governed by others who have given him evil counsel, to his own dishonor and to the destruction of holy Church and of all his people, without his being willing to see or understand what is good or evil or to make amendment, or his being willing to do as was required by the great and wise men of his realm, or to allow amendment to be made.

2. Item, throughout his reign he has not been willing to listen to good counsel nor to adopt it nor to give himself to the good government of his realm, but he has always given himself up to unseemly works and occupations, neglecting to satisfy the needs of his realm.

3. Item, through the lack of good government he has lost the realm of Scotland and other territories and lordships in Gascony and Ireland which his father left him in peace, and he has lost the friendship of the king of France and of many other great men.

4. Item, by his pride and obstinacy and by evil counsel he has destroyed holy Church and imprisoned some of the persons of holy Church and brought distress upon others and also many great and noble men of his land he has put to a shameful death, imprisoned, exiled, and disinherited.

5. Item, whereas he was bound by his oath to do justice to all, he has not willed to do it, for his own profit and his greed and that of the evil councillors who have been about him, nor has he kept the other points of his oath which he made at his coronation, as he was bound to do.

6. Item, he has stripped his realm, and done all that he could to ruin his realm and his people, and what is worse, by his cruelty and lack of character he has shown himself incorrigible without hope of amendment, which things are so notorious that they cannot be denied.